

REMARKS

Claims 7-16 are pending in this application after this amendment. Claims 1-6 have been canceled without prejudice or disclaimer to the subject matter included there. New claims 10-16 are presented for consideration by the Examiner. No new matter has been added by the addition of claims 10-16. Based on the amendments and remarks made herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended the claims to more appropriately recite the claimed invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claims 1-9 under 35 U.S.C. §101. The Examiner further rejected claims 1-5 and 9 under 35 U.S.C. §102(b) as being anticipated by Tull (USP 5,946,667); rejected claim 6 under 35 U.S.C. §103(a) as being anticipated by Tull in view of Nison, Steve, Beyond Candlesticks: New Japanese Charting Techniques Revealed, (hereinafter "Nison"); and rejected claims 7-8 under 35 U.S.C. §103(a) as being unpatentable over Tull in view of Morris, Gregory, Candlestick Charting Explained, (hereinafter "Morris"). Applicants respectfully traverse these rejections.

Claim Rejections – 35 U.S.C. §101

The Examiner rejected claims 1-9 asserting that the claimed term "sections" is construed to mean software only, and thus, are unpatentable citing to MPEP 2106. Applicants respectfully disagree with the Examiner's interpretation of the claims.

35 U.S.C. §101 recites as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7-8 are directed to a stock trading support apparatus. Claim 9 is directed to a stock trading support system including a stock trading support apparatus. Clearly an apparatus falls within one of the four enumerated categories of statutory subject matter set forth in 35 U.S.C. §101.

The Examiner asserts that because the claim includes “sections”, that these recitations remove the claim from one of the four enumerated categories, and defines the claim as pure software. This interpretation is wholly erroneous as it is completely contradictory to the “apparatus” and “system” recited in the preamble of the claims.

Applicants respectfully submit that the apparatus and system cited in the preamble of the claims identifies the claims as falling clearly within one of the four enumerated categories under 35 U.S.C. §101 and thus, these claims recite statutory subject matter. It is respectfully requested that the outstanding rejections be withdrawn.

Prior Art Rejections

In support of the Examiner’s rejection of claim 7, the Examiner admits that Tull fails to teach or suggest the line-drawing section, the judging section and the buy-turn information notifying section as recited in claim 7. The Examiner relies on the teachings of Morris to cure the deficiencies of the teachings of Tull. However, in support of this assertion, the Examiner merely asserts that Morris teaches “Japanese candlestick charting and candle pattern analysis will help anyone who wishes to have another tool at their disposal: a tool that will help sort and control the constant disruptions and continuous outside influences to sound stock and future analysis.” Applicants respectfully disagree that these teachings are sufficient to cure the deficiencies of the teachings of Tull.

The Examiner is reminded that in order to sustain a rejection under 35 U.S.C. § 103(a), it is respectfully submitted that the Examiner must meet his burden to establish a *prima facie* case. “To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art, to modify the reference to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Claim 7 recites, *inter alia*, a line-drawing section to draw a downward trend line based on the candlestick-shaped tendency chart of a brand judged to be in a good time to buy, among brands in the promising brand information created by the promising brand information creating section; a judging section to judge whether the brand is in a buy-turn, based on the downward trend line drawn by the line-drawing section and on candlestick-shaped tendency chart data at the good time to buy the brand judged to be in the good time to buy; and a buy-turn information notifying section to notify the user terminal of a judgment result given by the judging section, as buy-turn information.

While Morris teaches that candlestick charting is a tool that helps sort and control the constant disruptions and continuous outside influences to sound stock and future analysis, these teachings are insufficient to teach a line-drawing section to draw a downward trend line based on the candlestick-shaped tendency chart of a brand judged to be in a good time to buy, among brands in the promising brand information created by the promising brand information creating section. Further, these teachings are insufficient to teach or suggest a judging section to judge whether the brand is in a buy-turn, based on the downward trend line drawn by the line-drawing section and on candlestick-shaped tendency chart data at the good time to buy the brand judged to be in the good time to buy. Finally, these teachings are insufficient to teach or suggest a buy-turn information notifying section to notify the user terminal of a judgment result given by the judging section, as buy-turn information. There is no disclosure that is directed to these claim elements, all of which are required by the claim.

As the cited references, either alone or in combination, fail to teach or suggest all of the claim elements, Applicants respectfully submit that claim 7 is allowable over the references as cited. It is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 11-16 are allowable for the reasons set forth above with regard to claim 7 at least based on their dependency on claim 7. Further, claims 8-10 include elements similar to those discussed above with regard to claim 7 and thus these claims are allowable for the reasons set forth above with regard to claim 7.

Conclusion

In view of the above remarks, it is believed that claims are allowable.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisin Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By 

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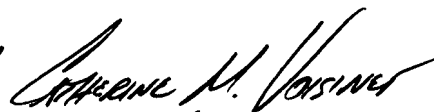
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